

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA
Western Division

U.S.A. v. Andre Marquis Mitchell

Docket No. 2:10-CR-33-3BR

Petition for Action on Supervised Release

COMES NOW Lakesha H. Wright, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Andre Marquis Mitchell, who, upon an earlier plea of guilty to Conspiracy to Distribute and Possess With Intent to Distribute More Than 50 Grams of Cocaine Base (Crack) and a Quantity of Cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and 846 was sentenced by the Honorable W. Earl Britt, Senior U.S. District Judge, on April 4, 2011, to the custody of the Bureau of Prisons for a term of 120 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 5 years. On September 30, 2013, pursuant to the granting of the defendant's motion under 18 U.S.C. § 2255, the defendant's term of imprisonment was reduced to 60 months. Thereafter, on December 2, 2013, upon the granting of the government's motion for a downward departure pursuant to Rule 35, the defendant's term of imprisonment was reduced to time served.

Andre Marquis Mitchell was released from custody on December 2, 2013, at which time the term of supervised release commenced.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On May 10, 2015, a warrant was issued in Nash County, North Carolina, charging Mitchell with Simple Affray (15CR51790). He was served with the warrant on May 13, 2015, and released on a personal recognizance bond the same date. According to one of the police officers who responded to the assault, he observed Mitchell and another male physically assault each another after they were ejected from a nightclub by security officers for fighting inside of the nightclub. When confronted by the probation officer regarding this conduct, the defendant contended that he was "jumped" by a group of individuals at the nightclub and that he did not remember anything afterward. The matter remains pending in Nash County District Court. As a sanction for the defendant's criminal conduct, we are recommending that he be placed on the home detention program for a period of 45 days. Although Mitchell denies the circumstances surrounding the assault, he signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall abide by all conditions and terms of the home incarceration program for a period not to exceed 45 consecutive days. The defendant shall be restricted to residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the probation officer. The defendant shall wear an electronic monitoring device and following electronic monitoring procedures specified by the probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

/s/ Dwayne K. Benfield

Dwayne K. Benfield
Supervising U.S. Probation Officer

I declare under penalty of perjury that the foregoing
is true and correct.

/s/ Lakesha H. Wright

Lakesha H. Wright
U.S. Probation Officer
201 South Evans Street Room 214
Greenville, NC 27858-1137
Phone: 252-830-2348
Executed On: June 1, 2015

ORDER OF THE COURT

Considered and ordered this 4 day of June, 2015 and ordered filed and
made a part of the records in the above case.

W. Earl Britt
Senior U.S. District Judge

